IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.PADMANABHAN NAIR

MONDAY, THE 5TH NOVEMBER 2007 / 14TH KARTHIKA 1929

FAO.No. 286 of 2006()

AS.69/1997 of ADDL. DISTRICT COURT, PATHANAMTHITTA
OS.209/2003 of MUSNIFF COURT,ADOOR

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APPELLANTS - APPELLANTS - RESPONDENTS - DEFENDANTS

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1. KUTTAN, VINOD BHAVAN,
KUTTIYILMUKKINU PADINJARU MUKKUM MURI,
MYNAGAPPALLY VILLAGE.

2. PADMASREE, DO. DO.

3. SANTHOSHKUMAR, DO. DO.

4. RAJASREE, DO. DO.

5. VIJAYASREE, DO. DO.

6. VINOD, DO. DO.

BY ADV. SRI.B.KRISHNA MANI

RESPONDENTS - RESPONDENTS - PLAINTIFF - DEFENDANTS:

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1. VELUMBI MARIAMMA,
MALIKAPURATHU PULIYAYYAHU VEEDU,
KILIKOLLOOR PANCHAYAT, KOLLAM TALUK.

2. THEVAN RAVI, KOTTACKATTUTHARA
VADAKKETHIL, PAYYANALLOOR MURI,
PALAMEL VILLAGE.

3. SIVARAMAN AMMINI,
NILAMEL VEEDU, ILAMPALLY MURI,
PALLICHAL VILLAGE.

4. SAJEEV, MINOR, DO. DO.

5. RAJEEV, MINOR, DO. DO.
(3RD APPELLANT IS THE GUARDIAN OF MINOR APPELLANTS 4 & 5).

BY ADV. SRI.R.LAKSHMI NARAYAN
SMT.R.RANJINI
SRI.SAJJU.S
SRI. K.SHAJ
SRI.B.BALRAJ

THIS FIRST APPEAL FROM ORDERS HAVING COME UP FOR ADMISSION ON 05/11/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K. PADMANABHAN NAIR, J.

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F.A.O. NO. 286 OF 2006

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Dated this the 5th day of November, 2007

J U D G M E N T

When the appeal comes up for admission, learned counsel appearing for the respondents submitted that in pursuance of the order of remand passed by the lower appellate court, trial court considered the matter and passed a decree and judgment during January, 2007. Suit was for partition after declaring two documents void and not binding on the plaintiff. A preliminary decree was passed allowing partition and allotment of 2/4 shares to the plaintiff. Challenging that decree and judgment additional defendants 6 to 10 filed A.S. No.69 of 1997. In the appeal they filed petition to amend the written statement. Lower appellate court allowed that application and remanded the case for fresh disposal. Against that order this appeal is filed.

Considering all aspects of the matter, I do not find any illegality or impropriety in the order passed by the lower appellate court and there is no scope for interference with the

same. The appeal is without any merit and the same is only to be dismissed.

In the result, appeal is dismissed.

K. PADMANABHAN NAIR, JUDGE.

vsv

K. PADMANABHAN NAIR, J.

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F.A.O. NO. 286 OF 2006

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J U D G M E N T

5TH NOVEMBER, 2007